Sectt. II-27—50,006—23-11-42.

Development (1944) Department.

Form

MS. SERIES.

G.O. No. 3086.

Dated 29-11-44

[Despatch Abstract.]

Mines - Minerals - Red oxide of iron (Bellary) - Bellary Taluk - Janikunta village - S. No. 326 - Sri V. Nimbka and Sri V. Peddada Rangaswamy chetty - Application for mining lease - orders passed

Revenue Department.
Subject.

57542

MINING LEASE - Red Oxide of iron - (Bellary) - Bellary Taluk - Janikunta village - S.No.326 - Sri V.Subbarangiah Chetti and Sri C.S.Srinivasa Rao - Applications.

Station: Madras. Ref.L.No.1690/44.3. Dated 2-10-1944

3-OCT 1944

From

R.Calletti Esq., I.C.S.,
Secretary, Board of Revenue, Madras.

To

A.R.C.Westlake Esq., C.I.E., I.C.S., Commissioner of Land Revenue and Irrigation.

Read the following papers:-

From the Collector of Bellary Ref.on C.592/42.A.1, dated 9-5-1944.
From the Board of Revenue, Ref.L.No.1690/44.2, dated 11-7-1944.
From the Collector of Bellary Ref.on.C.4794/44.A.1, dated 25-8-1944.

REFERENCE.

Submitted to the Government.

2. The Collector has recommended the grant of the lease to Sri V. Nimbkar in preference to Sri V.Pedda Rengaswami Chetti for the following reasons:-

(i) that Sri Rengaswami chetti did not get his renewed prospecting license executed and registered.

(ii) that he did not carry on anywork either during the period of the original license or renewed license.

(iii) that while the matter of the inclusion of a portion of S.No. 326 of Janikunta village in S.No.3 of Tumti village due to a mistake on the part of the Deputy Surveyor was under investigation by the Collector. Sri Rengaswami chetti filed civil suits against Sri V.Nimbkar.

(iv) that Sri C.Srinivasa Rao agent of Sri V.Nimbkar, has all along been working in the area and supplying the mineral for war purposes through important firms.

(v) that the application of Sri Srinivasa Rao (on behalf of his principal Sri V.Nimbkar) for the lease is of a earlier date than that of Sri Rengaswami Chetti, and

(vi) that Sri C.Srinivasa Rao has entered into big contracts for the supply of red oxide powder to reputed firms which supply paint for war purposes.

3. The Board has examined the relevant records. It observes that till 1944 the district practice was not to have fresh licenses executed and registered in the case of renewals. When the Collector enquired whether it was not necessary to have fresh licenses executed in such cases it was pointed out to him that it was not the practice to do so.- Vide page 2 N.F. of Collector's file D.Dis.P.L.A.3/42 dated 29-5-42. Sri Rengaswami Chetti is not to be blamed for his failure to have the renewed license deed executed and registered. The Collector accepted the explanation of Sri Rengaswami Chetti that he was unable to carry any work during the period of the original license and renewed the license for another year with effect from 28-5-42 so as to enable him to complete his search of the land. This was done under the powers vested in the Collector under Rule 30(i) of the Mining Rules. The orders granting the extension of the prospecting license for the second year were despatched on 3-6-42. On 19-9-42 Sri Rengaswami chetti brought to the Collector's notice the unauthorised occupation by Srinivasa Rao of a portion of the plot covered by his license. The Collector has had the matter investigated and it has been established that the survey of S.No.3 of Tumti village carried on by the Deputy Surveyor was wrong and that about half the extent of the plot granted on license to Rengaswami Chetti had been included in S.No.3 of Tumti village. Vide the reports of the Revenue Divisional Officer, the Tahsildar and the

542

8829

Received.....1935. Registered.....1935.

Abstract:

Land Acquisition (Salem) - Namakkal Taluk - Agrahara Kunnathur - Raja channel - Flood Bank - 4(1) Notifications - Publications - Ordered.

- - - -

Circle Officer who have inspected the area independently at pages 101-103 and 151 to 152 C.F. and 31-36 N.F. of the Collector's investigation file C.No.416/40. The Collector who started the investigation of the matter did not inform Rengaswami Chetti of the action taken by him nor did he direct Srinivasa Rao to stop working in the disputed area. Rengaswami Chetti had therefore to take recourse to the Civil Courts to stop Srinivasa Rao from working in the area and obtain possession of the mineral worked by him. The Government were not however impleaded as a party to the suit. The Civil suit s failed on the technical ground that Rengaswami Chetti was not in possession of the disputed area.

(2) Even though Srinivasa Rao is the prior applicant for the lease the question of priority of applications does not arise in this case because Rengaswami Chetti had a valid license duly renewed by the Collector and he applied for the mining lease before the expiry of the prospecting license. Under rule 52 of the Mining Rules he is entitled to have the mining lease and it has not so far been brought to notice that he has committed a breach of the covenants in respect of any other lease held by him. Sri V.Nimbkar already has extensive areas on lease and license from the Government and is fast approaching the maximum area that can be held by a single individual. Excluding the area now in question, he has other areas for redoxide of iron and he can supply the companies with whom he has already entered into contract with the mineral.

4. In the circumstances the Board is unable to accept the Collector's recommendation and considers that both under the rules and in fairness, Sri V.P.Rengaswami Chetti is entitled to preference. He has agreed to have the lease for a period of five years and subject to the additional condition that it will be liable to termination without compensation if the lands are required by the Government after the war.

The Board recommends that the Government may be pleased to accord their previous approval to the grant of the lease to Sri V.P. Rengaswami Chetti. To ensure that he works the plot properly it proposes to impose a special condition that he should work the area with deligence.

5. The connected records are enclosed for perusal and return.

xx

for Secretary.

To

The Secretary to Government,
Development Department with records as per list to be returned (Paras 1 to 5 only).
The Collector of Bellary (Paras 6 to 8 only).

2/10
ksr.2.10.

Enclosures.

D.Dis.P.L.A.3/42 dated 29-5-42. — (D)
D.Dis.P.L.A.9/39 dated 30-6-41. — (E)
Investigation file, Hospet Taluk F.71/41, dated 28-7-41. (L)
Mining lease correspondence C.No.996/44. C.F. and N.F. (N)
Investigation file C.No.416/40 C.F. and N.F. (R)
Judgments (Two) — (W) & (T)
Petitions from C.Srinivasa Rao to Collector (PP.39-49.C.F.). (C)

	Pay of officers - cal. not taken into account	Net expenditure	J. A. including cost of passages	other Compensatory	Pay & officers	Pay & Establishment	J. A.	Contingencies & other charges
	Rs	Rs	Rs	Rs	Rs	Rs	Rs	Rs.
Appropriation	59400	55800	3600	1100	18400	80800	3600	2300
	3600		2384				478	
Expenditure for 9 months	~~46028~~ 46028 2328	43700	1966	529	15536	56684	~~545~~	1426
for the remaining months		13750	1000		4890	18900	168	480
Total		57450	3334	529	20426	75584	3145	1906
			+3300				3200	
Anticipated Surrender			-300	-571	---	-4100		
Anticipated addl allotment		+1700			+2026			
					+2100			

Dec	CAs.	1250.0	62 8.0
	CFA.	1000.	53 0.0
Jan		3416.11.	173.13.0
Feb		3416.11	173 13.0
+ Ds.		5400.0	270.0.0
		14483.6	733.2
		-733.2	
		13750.4	

Copy of Ref.on C.592/41-A1 dated 9-5-1944 from P.S.Viswanatha Ayyar, Esq., I.C.S., Collector of Bellary.

Sub:- Mining leases - Red-oxide of iron - Bellary Taluk - Janikunta village S.No.326 - Sri V.Subbarangaiha Chetty and Sri C.Srinivasa Rao - applicants.

Sri V.Subburangiah Chetty, Agent of Sri V.Peddarungaswami Chetty and Sri C. Srinivasa Rao, Agent of Sri V.Nimbakar have both applied for the grant of a mining lease to mine red-oxide of iron over an area of 76 acres in S.No.326 of Janikunta village in Bellary taluk. I recommend the grant of the lease in the name of Sri C.Srinivasa Rao for the reasons mentioned below:-

2. In 1936, Mr. S.S.Guzdar of Calcutta had applied for the grant of a mining lease for red-oxide in S.No.326 of Janikunta and in S.No. 276 of Hargandona village in Bellary taluk. Sri Peddarangaswami Chetty also had applied for a prospecting licence to prospect for and mine in S.No.326. In Board's proceedings Mis.No.7 dated 3-1-38, however, the Board sanctioned the grant of a mining lease for red-oxide to Mr.S.S. Guzadar for a period of thirty years over an extent of 112 acres in S.No.326 of Janikunta village and for an extent of 117 acres in S.No.276 of Hargondona village; but on appeal, the Government cancelled the above Board Proceeding and ordered the grant of a prospecting licence over the area 112 acres in S.No.326 of Janikunta village to the appellant Sri V.Peddarangaswami Chetty. In accordance with these orders, the then Collector granted on 28-5-1941, a prospecting licence to prospect for and mine red-oxide of iron over an extent of 76 acres to Sri V.Subbarangiah Chetty, agent of Sri V.Peddarangaswami Chetty as desired by him, for a period of one year. The licensee, however, did not prospect for the mineral during the period of thelicence, or take any interest in the matter but applied for the extension of the term for a further term of one year from 28-5-42. Accordingly my predecessor renewed the licence for another year by issuing proceedings. The renewal was not got registered as laid down in Mis. Local Government Rules on page 88 of the Mining Manual. The licensee also was not deligent enough to have the renewal registered under the abovo rules.

3. Adjoining this area towards the east, lies S.No.3 of Tumati village within the jurisdiction of Hospet Taluk. On 11-6-41, Sri C. Srinivasa Rao, Agent of Sri V.Nimbkar obtained a prospecting licence to prospect for red-oxide of iron over an area of 288 acres in the above field S.No.3 of Tumati village and this prospecting licence has ripened into a mining lease sanctioned in B.P.Mis.487 M. dated 29-9-42. The above field is said to be an unsurveyed block and the surveyor who surveyed the land for purpose of the above lease wrongly cut off a portion to the extent of about 40.50 acres from S.No.326 and merged it in S.No.3 of Tumati village and under the plan granted to him with the licence Mr.C. Srinivasa Rao has been carrying on mining operations in the above area. This area has been reported to fall in that granted to Mr.Subbarangiah Chetty holder of prospecting licence. Mr. Subbarangiah Chetty, therefore, complained to the Collector on 19-9-42 of the above occupation in his land. On investigation, the Range Officer, Chittoor has found the above survey to be incorrect and proposals to restore the original boundary are pending with him.

4. While the matter was under investigation, Mr. Subburangiah Chetty filed a suit in the District Munsif's Court, Bellary against Sri C.Srinivasa Rao for an injunction respraining the defendant from entering upon the land; but the District Munsiff dismissed the suit with cost chiefly for the reason that the plaintiff had no valid title to the land as he had not got the renewal of the prospecting licence registered as required by the mining rules and also for the reason that he had no possession of the land till the filing of the suit on 21-9-1942. On appeal the District Judge Bellary agreed with the finding of the District Munsiff and dismissed the appeal with costs on the same grounds. The Range Officer also has completed his investigation.

Subject — Enquiry (for Godavari
Pithapuram taluk — Lands in
which Govt. have an
interest in villages in
Estates — Demarcation chaps
apportionment — Approval of
Govt rates and adjustment of
Govt + Co

5. Now both the parties have applied for the entire area of 76 acres on mining lease. Mr. Subbarangiah Chetty has not made any attempt to prospect, for ore or even enter upon the land and he cannot therefore complain of encroachment. The prospecting licence held by him for the period from 28-5-42 to 28-5-43 is an unregistered one and not therefore valid. He has not undertaken any mining operations ever since the licence was granted to him. He appears to be a mere speculator who wants to keep away the other applicant out. His application for the mining lease was also received late on 20-11-42 and is not accompanied by a security deposit of Rs.500/- as laid down in rule 36. The application of Sri C.Srinivasa Rao was received much earlier on 21-10-48 and was followed by the security deposit of Rs.500/- which was credited in to the Imperial Bank of India in challan No.203 dated 21-4-42. He was also enclosed to his application a statement showing the areas held by him in the province under mining concessions. He holds a certificate of approval renewed for 1944 and published at page 158 of the Mis. Notifications part II of the Fort St. George Gazette dated 1-2-44. He has been carrying on mining operations and it appears he has been supplying the Government of India Supply Department with the ore in large quantities and he is not therefore a mere speculator. He holds mining concessions in the adjoining lands in the same field and other fields in the vicinity I therefore request that the Board may be pleased to accord sanction for the grant of a mining lease for the entire area of 76 acres in S.No.326 of Janikunta village for red-oxide of iron.

6. As regards the dead rent, surface rent and royalty payable by the applicant, I invite attention of the Board for its B.P.Mis.2348 dated 25-8-41 in which it has fixed the dead-rent at Re.1/- per acre, surface rent at 0-4-0 per acre and royalty at 2½% of the sale value for the similar concession granted to the same individual in the same field. The above rates will apply to the present case also and they may be adopted.

I enclose their applications together with the connected records.

Sd/.....
for Collector.

56692

29-8-44

To

The Secretary,
The Development Department,
Government of Madras,
Fort St: George, Madras.

In the matter of Prospecting Licences for Red Oxide Tumti-Janikunta area, Bellary District.

Reference: Collector of Bellary's STAY ORDER - Rc. No.4794/44 A.1- dated 14-8-1944.

The Petitioner — Mr. V. Nimbkar.

by his Agent — Mr.C.Srinivasa Rao.

I do hereby appoint Rao Bahadur N Sivaraj,B.A;B.L. Advocate, High Court of Madras, to appear, plead and act for me in the above matter.

Dated this 26th Day of September 1944, Madras.

C. Srinivasa Rao
Power of Attorney Agent to Mr V. Nimbkar
Petitioner.

Accepted
N. Sivaraj

12, Anuli st. Royapettah P.O.
Madras.

The Secretary,
Development Department,
Government of Madras, Madras.

The humble Petition of V. Nimbkar, by his Agent, C. Srinivasa Rao, holder of mining licence over S. No. 3 of Tumti, Hospet, Bellary District, showeth as follows:-

1. By an Order No.C.4794/44-A-1 dated 14th August 1944 served on the Petitioner by the Collector of Bellary under the directions of the Board of Revenue the Petitioner was required to stop all mining work in the Tumti-Janikunta area.

2. The Petitioner has been upto the time of service of the aforesaid Order, working the said area for over three years i.e., since 11-6-1941 on which date the Petitioner was granted a Prospecting Licence.

3. During the subsistence of the said prospecting licenc the Petitioner applied for and obtained a Mining Leas for thirty years in accordance with the provisions an instructions contained in the Madras Mining Manual.

4. Before the lease was executed by the Authorities one V.Pedda Rangaswami Chetty, who apparently was also given a prospecting licence over a portion (76 acres) of S.No.326 of Janikunta, Bellary taluk, Bellary district, commenced a dispute in September 1942 alleging that a portion of the area worked by the Petitioner was comprised in his prospecting licence. The said V. Pedda Rangaswami Chetty instead of adopting the usual course of approaching the Collector of Bellary to settle the boundaries of the area for which he was given a prospecting licence and thereby settling the dispute

dispute raised by him, filed a Civil Suit in the Court of the District Munsiff of Bellary for, among other reliefs, a declaration that part of the area which was worked by the Petitioner was comprised within the area comprised in his prospecting licence and that the Petitioner should be restrained by a permanent injunction from working the said part of the area comprised in the Petitioner's Prospecting licence and Mining lease.

The said V. Pedda Rangaswami Chetty also applied to the District Munisiff, Bellary, in the said suit for a temporary injunction pending the disposal of the suit. The Petitioner was anxious to avoid any interruption of work and being certain of his rights for the area in question offered to work on terms which the Court readily accepted and allowed
/him to carry on the work.

The suit eventually came on for hearing and the learned District Munsiff dismissed the suit filed aforesaid by the said V. Pedda Rangaswamy Chetty holding inter alia that the said V. Pedda Rangaswamy Chetty had no subsisting or valid title either as a prospecting licensee or as a lessee to the disputed area.

The said V. Pedda Rangaswamy Chetty preferred an Appeal against the said decision of the District Munisff before the District Judge, Bellary; but the learned District Judge dismissed the Appeal and upheld the Judgment of the District Munsiff.

The portion of the area in dispute is only a very small area and although the prospecting licence was given to him over three years ago the said V. Pedda Rangaswamy Chetty

has not even started work on any portion of the area comprised in his prospecting licence and has not even worked the portion which is not covered by the dispute raised by him as between himself and the Petitioner, which conduct, the Petitioner, submits, has, by virtue of the provisions of the Madras Mining Manual, entailed upon the said V. Pedda Rangaswamy Chetty, the forfeiture of the licence, so much so that he is not a licence holder entitled to raise any dispute with reference to the area included in the Petitioner's Lease.

When the Civil Suits went against him, V. Pedda Rangaswamy Chetty approached the Collector and got an Order to be - issued to the Petitioner to stop work in the disputed area until the dispute was settled. The Petitioner represented to the Collector the hardship arising out of this Order and obtained permission to work the mine on terms until the question was decided by the Collector.

The Petitioner also, by way of abundant caution, applied for a Mining Lease in respect of the disputed area as well if for any reason the Collector should think that the disputed area, notwithstanding the claims of the Petitioner, was not considered to be comprised in the Prospecting Licence -- already given to him.

The Petitioner is informed and believes the same to be true that the Collector of Bellary is and has always been inclined to grant the lease and, if necessary, regularise matters with reference to the disputed area. The said V. Pedda Rangaswamy Chetty, however, has from the beginning adopted a policy whereby he has been trying to prevent the Petitioner from obtaining the fruits of his labour, skill and expenditure

of large sums of money in working the area granted to him while he himself was not prepared and had in fact done no work in the area comprised in his prospecting licence The excuse given by him for not so working his area, namely domestic inconvenience, is not one of the reasons, the Petitioner submits, recognised in the Mining Manual.

12. The Petitioner, on the strength of the prospecting licence and Mining Lease sanctioned in his favour, been working the area aforesaid and further has contracted for the supply of minerals acquired from such area to Messrs Goodlass Wall - (India), Ltd., Messrs The Elephant Oil Mills, Ltd., of - Blundel Spence and Messrs Cooper & Co, all of whom are under contracts for fulfilling urgent War demands. The Petitioner has also been granted Priority Certificates for the purpose of enabling him to implement his contracts with the War suppliers as aforesaid.

13. By reason of the Order communicated by the Collector of - Bellary mentioned in Para 1 above, the Petitioner has been, presumably on the representation of the said V. Pedda - Rangaswamy Chetty, prevented from working the mineral for supplying the aforesaid suppliers, who are under contracts to supply War demands and the Petitioner is losing, one after another, the Priority Certificates which have been granted in his favour.

14. The Petitioner is thereby suffering irreparable loss which cannot be adequately compensated in damages.

15. The Petitioner submits that he has all along been working only the area which was demarcated and given to him by Government as being comprised in his prospecting licence and Mining lease and there has never been any suggestion

that

that he was a trespasser on the area in question. It was included in his concession and whether it was rightly or wrongly included is a matter of no consequence, - especially when the Courts have decided that V. Pedda Rangaswamy Chetty has no manner of right or title to this or to the contiguous and adjacent area.

16. The Petitioner submits that there might be some difficulty if both parties had a valid and subsisting title to the same land. As has been submitted above V. Pedda Rangaswamy Chetty, in any view of the case, has no valid or subsisting tile. The Petitioner submits that equities also are in his favour and that it is unjust to deprive him of the fruits of his labour and allow the other man to steal them.

17. The Petitioner prays that the Order directing him to stop work in the area may be kindly vacated immediately and in case the plot in question is considered now to rightly - belong to Janikunta and not to Tumti the matter may be regularised by granting him the area either separately or by including it in the Mining Lease for S.No.3 of Tumti which has been sanctioned and is awaiting execution which is delayed pending the disposal of the question.

Dated this Day of September 1944.

C. Venkata Rao
Power of Attorney Agent to Mr V. Nimbkar
PETITIONER.

Endt. no. 5692 Rev. dated 19-Dec.
Dy.
Reference to the Board of Rev. for early
Remarks.
D.S.
2/X/Dec.

Bd. of Rev.
25/X/Dec.

Rev. Dept

O.M. No: 5754 HII/44-1 dated 7.-XI-44.

Mines - Mining Lease - Red Oxide of Iron - Bellary Taluk - Janikunta village. S.No: 326 - Sri V. Sulla Rangiah Chetty and Sri V. Nimbkar - Application.

From the Board of Rev. Ref: L. No: 1690/44-3 2/X/44.

The Board of Rev. is requested to ascertain and report the total area held by Sri V. Nimbkar under mining leases in this Province.

Sd/-
7/XI/44.

Sd/-
7/XI/44.

66743

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

13 NOV 1944

X ML NEW DELHI 11/18 SIVASHANKAR DEVELOPMENT SECRETARY

MADRAS FORT SAINT GEORGE

APPEARING TWENTYSECOND REQUEST KEEP PENDING NIMBAKAR

PETITION = SIVRAJ =

To AS.

Please see the telegram from on page 20 above. The Board has been asked to report the total area held by Sir V. Ramkaran under various leases in this Province in connection with the disposal of his petition. Reply from the Board of Rev. may be awaited

18/7/47

18/7/47

18 NOV 1944

S7532

Revenue Department

Subject.

Mines - Mining Lease - Red oxide of iron - Bellary Taluk - Janikunta village - S.No.326 - Sri V. Subba Rangiah Chetty and Sri V. Nimbkar-Application.

Ref:L.1690/44-5.

Station: Madras. Dated 15-11-44.

From

R. Galletti Esq., I.C.S.,
Joint Secretary, Board of Revenue, Madras.
A.R.C. Westlake Esq., C.I.E.,
Commissioner of Land Revenue and Irrigatic...

P2 above Read:- Memorandum from the Government of Madras, Development Department Mx No.57542/H.II/44-1 dated 7-11-44.

Reference:-

P27 below
P28 below

The attention of the Government is invited to the Board's Ref.L.236/44-6 dated 13-11-44 in which a statement showi the areas of land held by Sri V. Nimbakar on mining lease was furnished.

15/11

For Joint Secretary.

To the Secretary to Government, Development Department.

5/11.

ADN.15.11. To A.S. The Board's reference L.236/44-6 d. 13/XI/44 in which a statement showing the areas held by mining leases by Mr. Nimbakar is said to have been sent has not yet been received in this Dept. It may be awaited till 18/XI/44

Dr.

above

Three Reminders are on record at Mx 27-28 below

[Original added to file No: 40736 HII/44 dealt with separately]

Copy of ref. L.No.236/44-6 dated the 13th November 1944 from the Board of Revenue to the Secretary to Government, Development Dept.

Mining - Prospecting Licence - Barytes - (Kurnool) - Dhone Taluk Peapally Panchayat Reserved Forest - 10-32 acres - Sri V. Nimbkar Renewal.

Memorandum from Government, Development Department No. 40736-HII/44- dated 21st July 1944.

Reports from the Collectors of 8 districts consulted.

The Board consulted the Collectors of 8 districts where Sri Nimbkar was reported to hold mining concessions. A statement containing a summary of the Collector's reports is enclosed. From the remarks column of the statement is observed that except for a failure to get the patta land agreement for barytes over an extent of 16.67 acres in Cuddapah executed and for the failure to work 'Beryl' in the extent of 1.93 acres granted on prospecting licence in Coimbatore, the work in other districts has been carried on by Nimbkar diligently.

S.No.	District.	Extent granted	Name of mineral.	Remarks.
1.	Cuddapah	16.67 acres	Barytes	Patta land-sanction accorded in July 1944. But agreement not yet executed.
2.	N.Arcot.		No-concession granted so far	Application under enquiry.
3.	Coimbatore	1.93 acres	Beryl	P.L. for 1 year from 21-3-1944 operations not started in spite of Collectors reminder. (The mineral is one required specially by the Govt. of India).
4.	Salem	50.74 acres	Corundum	About a ton of corundum produced every month. Tahsildar says that work is done deligently.
5.	Trichinopoly	N I L.		
6.	Bellary	1168 acres M.L. & P.L.	Red Oxide of Iron	Nimbkar is reported to be working the area granted to him deligently - Ore supplied to some Bombay firms for supply to defence depts.
7.	Anantapur	1482.52 acres (figure taken from the list furnished by the Agent of Nimbkar.	Barytes, Calcite & Stealite)	Tahsildar Tadapatri reports that Nimbkar is working his mines deligently. (The extent held on M.L. & P.L. not reported by the Collr.)
8.	Kurnool	1208-70 acres	Barytes and Red oxide of Iron	From the particulars furnished by the agent of Sri V.Nimbkar it will be seen that he is working his plots deligently. (The collector does not appe to have verified the extend furnished by the agent)

3928.56

DEVELOPMENT DEPARTMENT

MINES - Minerals - Red Oxide of Iron (Bellary) - Bellary Taluk - Janikunta village - S.No.326 - Sri V. Nimbkar and Sri V. Pedda Rangaswamy Chetty - application for mining lease - Orders passed.

READ:

From the Bd. of Rev. No L.No.1690/44-3 dated 2-10-44
Petition dated nil from ~~xxx~~ Sri V.Nimbkar.

O R D E R ~~Rc~~ No. 5086 ~~Dev~~ dated 29-11-44.

The Govt. consider that Sri V.Nimbkar should be granted a mining lease for Red Oxide of Iron over the entire area of 76 acres applied for by him in S.No.326 of Janikunta village, Bellary Taluk, Bellary District. ~~The Bd. of~~ Rev. ~~is requested to take action for granting a lease~~ accordingly to Sri V.Nimbkar in respect ~~of the area~~ de lease may be granted for a period of 5 years subject to the special condition that the land should be relinquished without compensation if it is required by the Govt. after the war.

2. The petitioner is referred to the Board of Rev. for orders on his petition to the Govt.

29/11/44

4/29/XI/44. 30/XI

D Sri V. Nimbkar ~~xxx~~ C/o. Rao Bahadur N. Shivaraj, Advocate, etc., 12, Andi street, Bellary.

29.11.44

Recommended at (C), (N), (L), (R), (D), (E), (J), (N)

To the Bd. of Rev (with three returned).
To the petitioner (para 2 only)

Development Dept.

Mines - Mining lease - Red oxide of iron - Bellary taluk - Janikunta village - S.No. 326 - Sri V.Subbha Rangiah and Sri C.S. Srinivasa Rao. - Applications.

C. No. 57542 H/42 From the Board of Revenue Ref.No. 1690/44 d/2.10.44.

To A.S.

The Board of Revenue has submitted proposals for the grant of a mining lease for Red Oxide of Iron to Sri V.P.Rangaswami Chettiar agent of Sri V.Subbha Rangaiah Chetty in preference to Sri C.S.Srinivasa Rao agent of Sri V.Nimbkar ~~recommended by the Collector of Bellary~~ over an extent of 76 acres in S.No. 326 of Janikunta village, Bellary Taluk. The facts of the case and the contentions of the Collector of Bellary and the Board of Revenue are noted on below for orders.

2. On 28.5.41 the Collector of Bellary granted a prospecting licence to prospect for and mine red oxide of iron over an extent of 76 acres in S.No. 326 of Janikunta village, Bellary Taluk to Sri Rangaswami Chetty. The prospecting licence was renewed. ~~extended~~ by the Collector of Bellary for a further term of one year from 28.5.42. The renewal of the prospecting licence was not registered as required under the Miscellaneous Local Govt. Rules at p.88 of the Manual. Sri Rangaswami ~~Subbha~~ Chetty ~~Rangaiah~~ applied on 20.11.42 (without the security deposit of Rs.500/- as required in Rule 36 of the Mining Rules) for the grant of a mining lease in respect of the area.

3. Adjoining the above area towards the East lies S.No.3 of Tumati village within the jurisdiction of Hospet taluk. On 14.8.39 Sri Srinivasa Rao (agent of Nimbkar) applied for the grant of a prospecting licence for red oxide over the total area comprising the survey No.3 of Tumti village, (which was believed to contain an area of 200 acres). In this connection the survey of the area applied for was undertaken by the Deputy Surveyor under the orders of the Collector of Bellary as a portion of the boundary of the field was kept unsurveyed. After the survey was over, it was reported that Survey No.3 of Tumti village measuring 288 acres may be granted on licence for mining operations. On the strength of the recommendations.

of the Dy. Surveyor and the Tahsildar, the Collector of Bellary granted the prospecting licence to Sri Srinivasa Rao for one year with effect from 11.6.41. In April 1942 Sri Srinivasa Rao applied for the grant of a ~~prospecting licence~~ mining lease in respect of S.No.3 of Tumti village. The Board of Rev. in its proceedings dated 29.9.42 sanctioned the grant of a mining lease in respect of the area. The lease deed was not however executed immediately as there was protracted correspondence on the grant of a certificate of approval to Srinivasa Rao. The field in question was an unsurveyed block and the Surveyor (Mr. Rama Podwal) who surveyed it in connection with the grant of a prospecting licence in 1941 wrongly cut off a portion of about 40,50 acres from the area granted on prospecting licence to Sri Rangaswami Chetty (agent of Subbarangiah Chetty) in S.No.326 (referred to in paragraph 2 above), and merged it in S.No.3 of Tumti village. Hence S.No.3 of Tumti village which was granted on prospecting licence with effect from 11.6.41 to Sri Srinivasa Rao was by the mistake of the Dy. Surveyor made to include a portion of the area granted to Sri Rangaswami Chetty in S.No.326 with effect from 28.5.41. The discrepancy referred to was brought to the notice of the Collector in about September 1942 who took up the question of restoring the original boundary of S.No.3. (Pending decision of the boundary question, the lease of S.No.3 was not granted) In the meantime Sri Srinivasa Rao applied for the grant of a mining lease on 21.10.42 in respect of the area of 76 acres in S.No.326 which was held under prospecting licence by Sri Rangaswami Chetty.

4. The Collector of Bellary ~~has rejected~~ rejected the grant of a mining lease to Sri Srinivasa Rao for the entire area of 76 acres in S.No.326 of Janikunta village for the following reasons.-

(i) That the application of Sri Srinivasa Rao for the grant of lease in respect of the area was of an earlier date than that of Sri Rangaswami Chetty and that the latter cannot be said to be the holder of the prospecting licence in respect of the area as he did not get the renewed prospecting licence executed and registered.

(ii) That while the matter of the inclusion of a portion of the Survey No.326 of Janikunta village in S.No.3 of Tumti village was under investigation by the Collector Sri Rangaswami Chetty filed civil suits against Sri Srinivasa Rao.

(iii) That Sri Rangaswami Chetty did not carry on any work either during the period of original licence or renewed licence while Sri Srinivasa Rao has all along been working in the area and supplying the minerals for war purposes and also entered into big contracts with reputed firms for supply of the mineral

5. The Board of Revenue however does not agree with the recommendations of the Collector and considers that the lease of the area should be granted to Sri Rangaswami Chetty and has met the above contentions as follows.-

Contention (i) above.- Even though Sri Srinivasa Rao is the prior applicant for the lease, the question of priority of applications does not arise because Rangaswami Chetty had a valid licence in respect of the area duly renewed by the Collector and he applied for a mining lease before the expiry of the prospecting licence. Under rule 32 of the Mining Rules he is entitled to have mining leases in respect of that area. The Board has pointed out that Sri Rangaswami Chetty is not to be blamed for his failure to have the renewed licence executed and registered as it had not been the District practice till 1944 to have renewal licence executed and registered in the cases of renewals though requir under the Miscellaneous Provincial Govt. Rules.

The Board has pointed out that on 19.9.42 Rangaswami Chetty brought to the notice of the Collector the unauthorised occupation by Srinivasa Rao of a portion of the plot covered by his licence. Though the Collector had the matter investigated and finally concluded that the survey of S.No.3 of Tumti village carried out by the Dy. Surveyor was wrong and that about half the extent of the plot granted to Rangaswamy Chetty had been included in S.No.3 of Tumti village, Rangaswam Chetty was not informed of the action taken nor was Srinivasa Rao asked to stop work in the disputed area. So Sri Rangaswam Chetty had to take recourse to the civil court to stop Sri Srinivasa Rao from working in the area though the civil suit failed on the technical ground that he was not in possession of the disputed area.

Contention (iii) above.- The Board has pointed out tha

the Collector accepted the explanation of Sri Rangaswami Chetty that he was unable to carry on any work during the period of original licence and renewed the licence for another year under the powers vested in him under rule 30(i) of Mining Rules. It has not been brought to the notice of ~~Sri Rangaswami Chetty that he to the Government~~ that he committed any breach of the covenants in respect of any other lease held by him so as to entail cancellation of the licence. Though the area is already being worked by Sri Srinivasa Rao this was due to the mistake of the Dy. Surveyor who wrongly included a portion of S.No. 326 held under prospecting licence by Rangaswami Chetty in S.No.3 Tumti village. The Board has pointed out that Srinivasa Rao has extensive areas on lease and licence from the Govt. and that he is fast approaching the maximum area that can be held by a single individual and that he can supply the companies with red oxide of iron from other areas leased to him.

6. The Board considers that under the rules and in fairness Sri Rangaswami Chetty is entitled to ~~the~~ preference and has recommended the grant of lease for a period of 5 years with the reservation to determine the lease if Govt. needed the land after the war. The Board has also proposed to impose a special condition that he should work the area with deligence. For orders whether the Board's recommendations will be accepted.

Pending disposal of the case, the Board of Rev. has directed Sri Srinivasa Rao to stop all mining work in the Tumti and Janikunta areas. Sri Srinivasa Rao has submitted a petition to the Govt. against this stay order and for the grant of the area in question on lease to him. The petition does not contain any new facts which are not considered by the Collector and the Bd. of Re For orders.

Both Sri V. Subbu Rangiah Chetty (Agent of Sri V. Pedda Rangaswami Chetty) and Sri C.Srinivasa Rao (Agent of Sri V. Nimbkar) are applicants for a mining lease to mine red-oxide of iron over an area of 76 acres in S.No. 326 of Janikunta village in Bellary taluk. This area

presumably includes an area of about 40.50 acres which is said to have been wrongly excluded from S.No. 326 of Janikunta village, Bellary taluk and merged in S.No. 3 of Tumati village of Hospet taluk. The Collector of Bellary recommends the grant of a mining lease to the second mentioned applicant (Sri Srinivasa Rao) while the Board is in favour of granting it to the first mentioned applicant (Sri Subbu Rangiah Chetty

2. On merely technical grounds it seems rather difficult to decide the case in favour of one or the other of the applicants. Both the applicants seem to have their own case on technical grounds which rest practically on the question of priority. On this question, the Collector thinks that Sri Srinivasa Rao is the prior applicant while the Board thinks that priority of application is in favour of Sri Chetty. Sri Srinivasa Rao's application for a mining lease was received by the Collector on 21.10.1942 while that of Sri Chetty was received on 20.11.42. But the Board thinks that the question of pribrity of application does not arise as Sri Chetty was already the holder of a valid licence duly renewed by the Collector and applied for the mining lease before the expiry of that licence. As it has not been brought to notice that Sri Chetty has committed a breach of the covenants in respect of any mining lease held by him, the Board argues that under rule 32 of the Mining Rules he is entitled to priority. The Collector has on the other hand pointed out that the application of Sri Chetty for a mining lease was not a regular application as it was not accompanied by a security deposit as required in rule 36 of the Mining Rules while the application of Sri Srinivasa Rao which was received a month earlier was followed by the required security deposit. The Board has not met this point in its reference where it has tried to overrule the objections of the Collector to the grant of a licence to Sri Srinivasa Rao. On the whole, the position as regards priority and other technical grounds under the rules seems to be even between the two applicants and need not perhaps

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be pursued for purposes of the grant of a mining lease and the question is better decided on merits.

3. As regards the merits of the two applicants, the Collector says that Sri Subbu Rangiah Chetty is a mere speculator who wants to keep the other applicant out and has not made any attempt to prospect for ore or even enter upon the land he holds under prospecting licence. This opinion of the Collector seems to be borne out by the remarks of the District Munsiff in his judgment on the case in the suit filed by Sri Chetty against Sri Srinivasa Rao for an injunction restraining the defendant for entering upon the land which was wrongly included in S.No.3 of Tumati village where Sri Srinivasa Rao was granted a prospecting licence for red-oxide. The Dt. Munsiff observed that "ever since the granting of the licence the plaintiff did not enter upon the land granted to him. The suit was filed more than one year after the granting of the licence. From this it follows that the plaintiff had no possession at any time before the filing of the suit. In spite of this he does not seek to recover possession but only asked for an injunction restraining the defendant from entering into or working the lands in the encroached land" The inference is that though the plaintiff was granted a prospecting licence in May 1941 and the defendant a similar licence over an area covering the adjoining land in June 1941 he waited till September 1942 to file the suit against the defendant - which means that he waited till the defendant successfully mined ore and in filing a suit at that moment showed an intention of restraining the defendant from working the mines on the encroached land rather than seek to recover possession of the land. The observations of the Dt. Munsiff in the suit seem therefore to confirm those of the Collector that Sri Subbu Rangiah Chetty did not undertake any mining operations which report seems assumably to be based on facts.

4. The Board does not dispute the fact that Sri Chetty did

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not carry out any mining operations but to remedy this defect it suggests that the mining lease be granted to him subject to a special condition that he should work the ore with diligence. It is not in favour of granting the lease to Sri V.Nimbkar though, undisputedly, he has been carrying on mining operations diligently and, according to the Collector, has been supplying the Government of India, Supply Department, with the red-oxide ore in large quantities on the grounds that he has extensive areas of lease and licence and "is fast approaching the maximum area that can be held by a single individual and that he can supply the Companies with which he had already entered into contracts with red-oxide from other areas. Under the present war conditions which demand that mining areas producing essential minerals should be worked to the full capacity, the relevant consideration appears to be whether an applicent is a mere speculator with no bona-fide intention of carrying out mining operations or is a diligent miner prepared to meet the demands of the present conditions and not whether he has or is about to acquire large areas. It may be noted in this connection that under rule 45 of the Mining Rules a mining lessee can hold leases up to a total area of 10 square miles within the territory of the Provincial Government. It does not therefore appear that a grant of the mining lease to Sri V. Nimbkar in the present instance will go to offend this rule. If necessary, the Board may be asked to report the total area of mining concessions held by him in this Province. (The Collector has stated that Sri Srinivasa Rao -- Agent of Sri V. Nimbkar - has enclosed such a statement with his application dated 21.4.42 - vide 'k' on page 7 c.f.)

For orders.

From the Board of Revenue Ref. L. 1690/44-5 dated 15-11-44.

To A.S:

(Notes from page 1 above and Secretary's orders on page 7 above)

The oard of Revenue has reported that the area held by Sri V. Nimbkar under mining concessions (including areas held on prospecting licences) is 3928.56 acres. The total area that can be held on mining lease by a lessee is 10 square miles or 6400 acres. For orders.

[Attention is invited to the telegram on p 23 ante.]

(Notes from page 1 above).

I agree with A.S. that the issue in this case is best decided with reference to the merits of the applicants rather than on technical grounds of priority. Mr. Chetty did not even prospect for the minerals, much less work the deposits although he held a prospecting licence in respect of it for a considerable time. On the other hand, Mr. Nimbkar has been working the deposits in this area and supplying lead oxide to the Supply Department. It appears to me that the Collector's observation that Mr. Chetty is a mere speculator who wants to keep other applicants out deserves more weight than the Board has chosen to give to it. I would accept the Collector's recommendation and grant a mining lease to Mr. Nimbkar.

A draft order is submitted.

has not specified the number of years Mr. Nimbkar has applied for a mining lease. It has been the policy of the Govt. to grant mining lease for a period of 5 years subject to the special condition that the land should be relinquished without any compensation if the land is needed by the Govt. after the war. (Mr. Nimbkar is willing to have the lease for a period of 5 years subject also to the special condition.) For orders whether the grant of the mining lease to Mr. V. Nimbkar will be limited to 5 years with the special condition referred to above.

Subject to orders the draft is submitted

Issued as G.O. No. 5076 Dev. dt. 29-11-44.